

EXHIBIT 11

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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 --oo--

5 WAYMO LLC,

6 Plaintiff,

7 Case

8 vs.

No. 3:17-cv-00939-WHA

9 UBER TECHNOLOGIES, INC.;

OTTOMOTTO LLC; OTTO TRUCKING LLC,

10 Defendants.

11 /

12 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

13

14 VIDEOTAPED 30(b)(6) DEPOSITION OF GARY BROWN

15 VOLUME II

16 WEDNESDAY, SEPTEMBER 6, 2017

17

18

19

20 Reported by:

21 Anrae Wimberley

22 CSR No. 7778

23 Job No. 2693569

24

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1	MR. BAKER: You can answer that yes or no.	10:13:52
2	THE WITNESS: No.	10:13:55
3	BY MS. GOODMAN:	10:13:55
4	Q. Is there a reason that you are questioning	10:13:59
5	the yes or no -- the "no" answer that you just gave to	10:14:03
6	that question?	10:14:04
7	MR. BAKER: You can answer that yes or no, I	10:14:08
8	suppose.	10:14:10
9	THE WITNESS: Can you repeat the question.	10:14:12
10	BY MS. GOODMAN:	10:14:12
11	Q. You answered that you did not have a	10:14:14
12	conversation with in-house counsel, Ms. Shana Stanton,	10:14:16
13	to prepare for today's deposition. You seemed to	10:14:22
14	express confusion with regard to your answer.	10:14:25
15	My question is, is there a reason you're	10:14:29
16	confused to your "no" answer to that question?	10:14:32
17	MR. BAKER: Object to form.	10:14:32
18	You can answer that yes or no.	10:14:35
19	THE WITNESS: Originally --	10:14:37
20	MR. BAKER: You can answer yes or no, just yes or	10:14:39
21	no.	10:14:40
22	THE WITNESS: Then, no.	10:14:41
23	BY MS. GOODMAN:	10:14:41
24	Q. Okay. Have you had conversations with	10:14:44
25	in-house counsel, Ms. Shana Stanton, about your	10:14:47

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1	forensic investigation since the filing of this	10:14:50
2	complaint?	10:14:51
3	A. Yes.	10:14:56
4	Q. How many?	10:14:58
5	A. I don't recall.	10:14:59
6	Q. Numerous?	10:15:00
7	A. Yes.	10:15:02
8	Q. More than ten?	10:15:02
9	A. I don't know.	10:15:12
10	Q. More than five?	10:15:12
11	A. I would say yes.	10:15:19
12	Q. So more than ten perhaps as well?	10:15:22
13	A. It's possible.	10:15:24
14	Q. Somewhere between five and ten or something	10:15:28
15	more than ten?	10:15:29
16	A. I'm unsure.	10:15:31
17	Q. Did you speak with anybody other than	10:15:36
18	attorneys to prepare for today's deposition?	10:15:39
19	MR. BAKER: You can answer that yes or no.	10:15:41
20	THE WITNESS: No.	10:15:47
21	BY MS. GOODMAN:	10:15:47
22	Q. Since the filing of the complaint in this	10:15:49
23	case, have you spoken with anybody other than	10:15:51
24	attorneys about your forensic investigation?	10:15:54
25	A. Yes.	10:16:01

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1	correct?	11:03:12
2	MR. BAKER: Again, for the record, when we're	11:03:13
3	talking about "other engineers," we're allowing him to	11:03:16
4	answer pursuant to the judge's orders and instructions	11:03:19
5	in court from a few days ago.	11:03:21
6	THE WITNESS: Yes.	11:03:25
7	BY MS. GOODMAN:	11:03:25
8	Q. Did you know -- strike that.	11:03:36
9	Are you aware that Waymo announced an	11:03:40
10	acquisition of Otto in August 2016?	11:03:44
11	A. That sounds right.	11:03:49
12	Q. What is your understanding -- strike that.	11:03:58
13	Did Waymo's acquisition of Otto precipitate	11:04:02
14	the investigation into Mr. Levandowski and other	11:04:06
15	former Waymo engineers?	11:04:07
16	A. I don't know.	11:04:08
17	Q. So it's your testimony you have no idea about	11:04:14
18	whether the Otto -- Waymo's acquisition of Otto formed	11:04:19
19	a basis for the investigation into Mr. Levandowski and	11:04:22
20	other Waymo engineers?	11:04:23
21	A. That is correct.	11:04:24
22	MR. CHATTERJEE: Jim, Judge Corley wants us to	11:04:49
23	call him at noon.	11:04:51
24	MR. BAKER: Yeah, I saw that.	11:04:53
25	MR. CHATTERJEE: Do you want to take a break now?	11:04:55

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1	MR. BAKER: Object to form.	11:15:49
2	THE WITNESS: As I understood it -- can I have a	11:15:53
3	time frame?	11:15:54
4	BY MS. GOODMAN:	11:15:54
5	Q. When you began -- you began your forensic	11:15:58
6	investigation into Mr. Levandowski in August 2016;	11:16:02
7	right?	11:16:02
8	A. Yes.	11:16:03
9	Q. And then you submitted the declaration in	11:16:05
10	this case of March -- in March of 2017 setting forth	11:16:08
11	the results of your investigation; correct?	11:16:09
12	A. Yes.	11:16:11
13	Q. So in that seven-month period or	11:16:16
14	beginning -- strike that.	11:16:18
15	In August 2016, what were you asked to prove?	11:16:21
16	MR. BAKER: Object to form.	11:16:24
17	THE WITNESS: I believe we were asked to determine	11:16:26
18	whether or not intellectual property had been taken.	11:16:32
19	BY MS. GOODMAN:	11:16:32
20	Q. And who asked you to determine whether	11:16:37
21	intellectual property had been taken?	11:16:39
22	MR. BAKER: Object to form.	11:16:41
23	THE WITNESS: I don't specifically recall. It	11:16:44
24	could have been a few different people.	11:16:47
25	BY MS. GOODMAN:	11:16:47

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1	list of search terms that were used by you and	11:19:51
2	Mr. Gudjonsson in the previous analysis of	11:19:56
3	Mr. Levandowski and Mr. Burnette?	11:19:59
4	A. That sounds reasonable.	11:20:02
5	Q. And this mentions a list from	11:20:04
6	Keker & Van Nest.	11:20:06
7	Were you provided with a list of search terms	11:20:08
8	from Keker & Van Nest?	11:20:10
9	A. I don't recall.	11:20:11
10	MS. GOODMAN: I'm handing the court reporter to	11:20:33
11	mark as Exhibit 2212 WAYMO-UBER 86812.	11:20:39
12	(Defendants' Exhibit 2212 was marked.)	11:20:55
13	BY MS. GOODMAN:	11:20:55
14	Q. Have you ever seen this document before?	11:20:57
15	A. I don't believe so, no.	11:21:06
16	Q. Okay. You can put that aside.	11:21:23
17	Did you understand that -- in August 2016,	11:21:35
18	did you understand there to be an urgency to your	11:21:38
19	investigation?	11:21:39
20	MR. BAKER: Object to form.	11:21:42
21	THE WITNESS: I assume there's an urgency to all	11:21:44
22	of my investigations.	11:21:46
23	BY MS. GOODMAN:	11:21:46
24	Q. Did you understand, with respect to your	11:21:48
25	investigation into Mr. Levandowski and other Waymo	11:21:51

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1	MR. BAKER: Object to form.	11:44:15
2	THE WITNESS: Yes, it was possible.	11:44:16
3	BY MS. GOODMAN:	11:44:16
4	Q. Who told you that was a possible reason for	11:44:26
5	the investigation?	11:44:27
6	MR. BAKER: Object to form.	11:44:28
7	THE WITNESS: I inferred it as a possibility based	11:44:31
8	on my reading of blogs. As we all know, I just get my	11:44:35
9	news off the Internet.	11:44:37
10	BY MS. GOODMAN:	11:44:37
11	Q. Did you infer it as a possibility based on	11:44:40
12	reading an e-mail like the one in front of, Exhibit	11:44:44
13	2214?	11:44:45
14	MR. BAKER: Object to form.	11:44:45
15	THE WITNESS: This points to one of the articles	11:44:47
16	that I would have seen in that time frame.	11:44:49
17	BY MS. GOODMAN:	11:44:49
18	Q. Did any attorneys tell you that one of the	11:44:55
19	reasons you were conducting an investigation into	11:44:58
20	Mr. Levandowski and former Waymo engineers was because	11:45:04
21	of Uber's acquisition of Otto?	11:45:07
22	MR. BAKER: Object to form.	11:45:08
23	THE WITNESS: I don't know. I don't recall.	11:45:09
24	BY MS. GOODMAN:	11:45:09
25	Q. You don't recall.	11:45:12

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1	Did Mr. Gorman at Keker & Van Nest ever	11:45:14
2	indicate that to you?	11:45:18
3	MR. BAKER: Object to form.	11:45:19
4	THE WITNESS: I don't recall that specifically.	11:45:22
5	BY MS. GOODMAN:	11:45:22
6	Q. Do you recall it generally?	11:45:24
7	MR. BAKER: Object to form.	11:45:25
8	THE WITNESS: I don't know.	11:45:26
9	BY MS. GOODMAN:	11:45:26
10	Q. So you understood your investigation into	11:45:33
11	Mr. Levandowski and former Waymo engineers to be based	11:45:39
12	on Uber's acquisition of Otto because of what you read	11:45:43
13	in the press?	11:45:44
14	MR. BAKER: Object to form.	11:45:45
15	THE WITNESS: Can you rephrase that. That seems	11:45:47
16	very complicated and like it's trying to get me to	11:45:50
17	agree to saying something I didn't say.	11:45:53
18	BY MS. GOODMAN:	11:45:53
19	Q. I'm trying to understand on what -- trying to	11:46:00
20	understand based -- you understood that one of the --	11:46:06
21	a reason you were conducting your investigation was	11:46:08
22	because of Uber's acquisition of Otto.	11:46:12
23	A. A reason we were conducting the investigation	11:46:14
24	may have been -- may have been, it's a possibility.	11:46:19
25	Don't know for certain. Don't know for sure.	11:46:24

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1	MR. CHATTERJEE: Did you say "corp." or "court"? 13:12:52
2	THE WITNESS: Corp., so corporate. Sorry for the 13:12:58
3	Google speak. It's just reflex. 13:13:01
4	BY MS. GOODMAN: 13:13:01
5	Q. For clarity, I want to talk about these 13:13:08
6	affected users, but I want to leave Anthony 13:13:10
7	Levandowski, Sameer Kshirsagar and Radu out for a 13:13:15
8	moment because you've talked about them in your 13:13:18
9	declaration. 13:13:18
10	A. Okay.
11	Q. Can we have that understanding? 13:13:20
12	A. Sure. 13:13:21
13	Q. So Mr. Gorman told you that a subset of these 13:13:25
14	folks were of interest. 13:13:31
15	Did that subset include anybody other than 13:13:35
16	Anthony, Radu or Sameer? 13:13:40
17	A. I don't recall. 13:13:40
18	Q. After pulling Google Drive reports for the 13:13:48
19	folks we've listed, other than Anthony, Radu or 13:13:53
20	Sameer, were you asked to do any follow-up work on 13:13:56
21	those individuals? 13:13:57
22	A. In addition to the host-based work that was 13:14:06
23	tracked in that team tracking doc that we discussed 13:14:11
24	earlier? 13:14:11
25	MR. CHATTERJEE: That's the Mater doc? 13:14:18

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1	Q. So when you say "IP," you're referring to an	13:21:17
2	IP address, not to intellectual property?	13:21:20
3	A. Yes. Yes, an IP address.	13:21:23
4	Q. You said you did not discuss complete	13:21:33
5	specifics with Mr. Gorman about the SVN log.	13:21:37
6	So I just want to know, what did Mr. Gorman	13:21:39
7	tell you about Anthony's activity with respect to	13:21:46
8	documents in the SVN server?	13:21:49
9	MR. BAKER: Objection to form.	13:21:51
10	THE WITNESS: I think that there was only one	13:21:54
11	occurrence of activity, that a lot of files were	13:21:58
12	downloaded. I'm unsure if he gave the number. But	13:22:03
13	the log wasn't shared with me at that time.	13:22:05
14	BY MS. GOODMAN:	13:22:05
15	Q. Did he express to you that that behavior was	13:22:08
16	suspicious?	13:22:09
17	A. It seemed interesting, yes.	13:22:13
18	Q. Mr. Gorman expressed to you that it seemed	13:22:17
19	interesting, or that was a conclusion you formed?	13:22:19
20	A. I think that was a conclusion I formed.	13:22:21
21	Q. What did Mr. Gorman express to you about that	13:22:23
22	behavior?	13:22:25
23	MR. BAKER: Objection to form.	13:22:25
24	THE WITNESS: I don't recall.	13:22:26
25	BY MS. GOODMAN:	13:22:26

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1	Q. You don't recall whether he told you it was	13:22:30
2	suspicious?	13:22:32
3	A. That is correct.	13:22:33
4	Q. Do you recall whether he told you it was part	13:22:37
5	of Anthony's normal work flow?	13:22:40
6	MR. BAKER: Objection to form.	13:22:43
7	THE WITNESS: I don't recall that. And when I say	13:22:47
8	that like I deemed it interesting, I figured he	13:22:53
9	wouldn't be asking us to resolve the IP or wouldn't	13:22:57
10	mention it if it wasn't interesting.	13:23:00
11	BY MS. GOODMAN:	13:23:00
12	Q. So you were relying on what Mr. Gorman --	13:23:06
13	A. On the fact that he e-mailed us about it. I	13:23:10
14	don't recall specifically what words he used, if any,	13:23:13
15	that would fall under suspicious or interesting or	13:23:16
16	anything like that.	13:23:19
17	Q. Who told Mr. Gorman that Anthony downloaded	13:23:22
18	the entire content of the SVN repository?	13:23:25
19	MR. BAKER: Objection to form.	13:23:28
20	THE WITNESS: I believe it was Sasha Zbrozek.	13:23:33
21	BY MS. GOODMAN:	13:23:33
22	Q. Why do you believe that?	13:23:35
23	A. I think Tom mentioned it at one point or	13:23:41
24	another. I don't know if he mentioned it that day or	13:23:45
25	at another time, but at some point I think he	13:23:49

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1 FEDERAL CERTIFICATE OF DEPOSITION OFFICER

2 I, ANRAE WIMBERLEY, CSR NO. 7778, do hereby
declare:

3 That, prior to being examined, the witness named
in the foregoing deposition was by me duly sworn
4 pursuant to Section 30(f)(1) of the Federal Rules of
Civil Procedure and the deposition is a true record of
5 the testimony given by the witness;

6 That said deposition was taken down by me in
shorthand at the time and place therein named and
thereafter reduced to text under my direction;

7 ----- That the witness was requested to
8 review the transcript and make any changes to the
transcript as a result of that review pursuant to
9 Section 30(e) of the Federal Rules of Civil Procedure;

10 ----- No changes have been provided by the
witness during the period allowed;

11 ----- The changes made by the witness are
12 appended to the transcript;

13 --X--- No request was made that the transcript
be reviewed pursuant to Section 30(e) of the Federal
14 Rules of Civil Procedure.

15 I further declare that I have no interest in the
event of the action.

16 I declare under penalty of perjury under the laws
17 of the United States of America that the foregoing is
true and correct.

18 WITNESS my hand this 7th day of September, 2017.
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24
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ANRAE WIMBERLEY, CSR NO. 7778